

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

BRADLEY E. JENKINS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil No. 07-00263-CV-W-FJG
	)	Crim. No. 04-00244-32-CR-W-FJG
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

**ORDER**

Currently pending before this Court is movant's motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence (Doc. #1), filed April 3, 2007. The Court finds that it has jurisdiction over this matter.

Movant was indicted on August 12, 2004 along with 40 other defendants. Movant was charged with conspiracy to distribute methamphetamine in an amount of 50 grams or more, a violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846 and criminal forfeiture under 21 U.S.C. § 853. On May 10, 2005, Movant pled guilty and entered into a plea agreement with the Government. In the plea agreement, movant acknowledged that he would be waiving various Constitutional rights, such as the right to pled not guilty, the right to a jury trial and the right to cross-examine witnesses. He also waived the right to appeal and to collaterally attack his conviction or sentence. Movant was sentenced on March 31, 2006 to a total of 168 months, 8 years' supervised release and a \$100 mandatory special assessment. Movant did not appeal his conviction or sentence.

In his petition for relief, movant asserts four bases for relief:

1. Counsel failed to establish the government's lack of jurisdiction over the locus in quo.

2. The Court's standard of review was insufficient.
3. There was a defect in the Government's charging instrument.
4. Title 21 U.S.C. is not a federal violation because there is a lack of interstate commerce nexus.

### **JUDGMENT**

The Court has reviewed movant's petition (Doc. # 1), respondent's opposition (Doc. # 3), and the record in movant's criminal case, and finds that movant's allegations are without merit. In particular, movant has waived his post-conviction rights and failed to properly preserve his claims by filing a direct appeal. Further, movant's substantive claims are without merit for the reasons stated in respondent's opposition. This Court adopts and incorporates by reference herein that analysis as its own.

For the aforesaid reasons movant's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 (Docs. #1) is hereby **DENIED**.

No evidentiary hearing will be held in this matter because the issues raised are resolvable by the record. Furthermore, movant will be denied a motion for certificate of appealability, in that the issues raised are not debatable among reasonable jurists, nor could a court resolve the issues differently.

Date: 11/26/07  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
Chief United States District Judge